

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Northern States Power Company  
200 MW Courtenay Wind Project  
Advance Determination of Prudence**

**Case No. PU-15-181**

**Northern States Power Company  
200 MW Courtenay Wind Project  
Certificate of Public Convenience and Necessity**

**Case No. PU-15-175**

**Northern States Power Company  
200 MW Courtenay Wind Project  
Transfer of Certificate of Site**

**Case No. PU-15-174**

**STAFF RESPONSE TO THE REQUEST OF NORTHERN STATES POWER  
COMPANY FOR TRADE SECRET PROTECTION**

On 30 April 2015, and 6 May 2015, Northern States Power Company (Xcel Energy or Company), filed applications for a trade secret protective order under North Dakota Administrative Code Section 69-02-09 for protecting against public disclosure trade secret information as defined by North Dakota Century Code Section 47-25.1-01(4).

The information for which the Company seeks protection includes Cost information as well as contract terms regarding the Company's proposal to construct, own and operate the 200 MW Courtenay Project.

The Company states that this information is commercial information because it is "information pertaining to buying and selling of goods and services that has not been previously publicly disclosed and that if the information were to be disclosed... would cause substantial competitive injury to the person from which the information was obtained," as provided in North Dakota Century Code Section 44-04-18.4(2)(a).



The Company further states that the cost information is trade secret because it is information that "(1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure; and (2) is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information," as provided in North Dakota Century Code Section 44-04-18.4(2)(d). As a result, the Company states that the information sought to be protected meets the definition of "trade secret" as set forth in North Dakota Century Code Section 47-25.1-01(4).

The information could have economic value to potential vendors, contractors, and suppliers who may desire to bid to provide material or services for the Company. In particular, potential suppliers would know what the Company has determined to be the cost range for certain components of its proposal, and consequently the cost range could potentially serve as a floor below which no bidder would submit a bid price. Such a result could be harmful for the Company's customers.

The confidentiality of this information has been maintained by the Company. The information is not disclosed to the public or to persons other than employees or authorized agents who need to know the information to fulfill their responsibilities in connection with the Company proposal, or to third persons pursuant to nondisclosure agreement to maintain the confidentiality of the information. The Company has requested that this information be treated as trade secret in all of its regulatory filings and other sharing of this information with governmental entities.

North Dakota Administrative Code Section 69-02-09-03 requires that the Commission staff examine the information and applications and make a recommendation to the Commission. Staff has reviewed the request of Xcel for protection of information.

North Dakota Century Code Section 44-04-18.4(2) authorizes protection for commercial, financial, proprietary, and trade secret information if privileged and if the information has not been previously publically disclosed. North Dakota Century Code Section 44-04-18.4(1). Commercial and financial information can be protected from disclosure if the information has not been previously disclosed and disclosure would impair the Commission's ability to obtain similar information in the future or would cause competitive injury to the person providing the information. North Dakota Century Code Sections 44-04-18.4(2)(a) and 44-04-18.4(2)(b). Proprietary and trade secret information can be protected when the information derives independent economic value from not being generally known to or readily ascertainable by other persons, and is the subject of reasonable efforts to maintain its secrecy. North Dakota Century Code Sections 44-04-18.4(2)(c) and 44-04-18.4(2)(d).

Staff believes that Xcel's applications satisfy the requirements of the North Dakota Century Code for protection of the information which is the subject of this request. The Commission's process provides a means for interested parties to review protected documents upon signing a nondisclosure agreement.



For reasons set forth above, Staff recommends that the Commission grant the applications of Northern States Power Company to protect certain filed information in this case.

Dated this 10<sup>th</sup> day of July, 2015

A handwritten signature in blue ink, appearing to read 'John M. Schuh', is written over a horizontal line.

John M. Schuh  
Staff Attorney  
North Dakota Public Service Commission